

FILE COPY

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1959

No. 59

SAM THOMPSON, PETITIONER,

vs.

CITY OF LOUISVILLE, ET AL.

**ON WRIT OF CERTIORARI TO THE POLICE COURT OF LOUISVILLE
OF THE COMMONWEALTH OF KENTUCKY**

PETITION FOR CERTIORARI FILED MAY 1, 1959

CERTIORARI GRANTED JUNE 22, 1959

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APPENDIX C.

**TRANSCRIPT OF EVIDENCE AND OTHER PERTI-
NENT PORTIONS OF THE RECORD.**

POLICE COURT OF LOUISVILLE

Commonwealth of Kentucky,

Plaintiff.

v.

Sam Thompson,

Defendant.

LOITERING AND DISORDERLY CONDUCT.

Louisville, Ky., February 3rd, 1959.

This case coming on to be heard before His Honor,
Judge Hugo Taustine, the following proceedings were had:

Appearances:

For Plaintiff: Mr. John Dougherty.

For Defendant: Messrs. Louis Lusky and
Marvin H. Morse.

OFFICER WILLIAM LACEFIELD, called by the
Commonwealth, being first duly sworn, was examined by
Mr. Dougherty, and testified as follows:

Q. Officer Lacefield, you arrested Mr. Thompson on the
24th of January for loitering and disorderly conduct.
What time of day or night did you arrest him?

A. At 6:53 p.m.

Q. And where?

3.

A. 342 East Liberty—the Liberty End Saloon.

Q. Inside or outside the place?

A. Inside.

Q. Is that a licensed saloon?

Testimony of Officer William Laceyfield

A. Yes.

Q. Licensed for beer or whiskey or just beer or what?

A. For beer, I believe.

Q. Tell us about this arrest?

A. Well, we went in on a routine check of the place and he was out there on the floor dancing by himself and when I noticed that I walked over and asked the bartender if he had bought anything in there and how long he had been there and he told us he had been there a little over a half-hour and that he had not bought anything and so we asked him what was his reason for being in there and he said he was waiting on a bus and the bus don't travel in front of that location.

Q. Which bus did he say he was waiting for?

A. He didn't give us any specific name.

Q. Where does he live?

A. Somewhere on the Old Shepherdsville Road.

Q. Where does that bus turn off?

A. It turns off at First Street to Preston and then south to Hill—it goes east to Preston Street and

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south.

Q. Did Thompson tell you how long he had been in there?

A. No, sir, Thompson didn't.

Q. Did you ask him about dancing in the place?

A. No, we seen him doing that when we walked in there.

Q. Was he dancing an ordinary dance or was he dancing any way vulgar?

A. No, just dancing an ordinary dance with one person.

Q. Is that all you know about the case?

A. Yes, sir, except after we informed him he was

Testimony of Officer William Lacefield

under arrest and went outside he was very argumentative—he argued with us back and forth and so then we placed a disorderly conduct charge on him.

Cross-examination by Mr. Lusky

Q. Officer, first of all, there was no warrant in this case?

A. No.

Q. And you say that Mr. Thompson told you he was waiting for a bus to go out to his home on the Old Shepherdsville Road?

A. Yes.

Q. Did he tell you what his address was on the Old Shepherdsville Road?

A. Yes, he gave us an address.

Q. What address was that?

A. 4112 Old Shepherdsville Road.

Q. Do you know what bus would take him out there?

A. The only one I know would be the Blue Motor.

Q. Did you check on what bus that would be, that is, whether the Okolona bus or the Buechel bus—in other words, what bus would take him out there?

A. Well, the only one I would know would be the Blue Motor bus line, which, I presume, would be the one to Old Shepherdsville Road—

Q. You assume because he gave you the Old Shepherdsville Road address that it would be the bus to Shepherdsville?

A. Well, I don't know but that wasn't important to me because where this saloon is located there is no bus that travels in front of that saloon—it would have to be going the wrong way on a one-way street.

Q. But it is your belief that it goes to Preston and out

Testimony of Officer William Lackfield

to Hill and then on out?

A. That's the one I would presume would go out

to the Old Shepherdsville Road.

Q. And that would end up at Shepherdsville?

A. Yes.

Q. Do you know that 4112 Old Shepherdsville Road is in Buechel?

A. I am not exactly sure of the location—I mean I know where the Old Shepherdsville Road is at there and I know where Buechel and West Buechel is, but I am not sure of this location.

Q. You would know that if his home is in—on—the Old Shepherdsville Road it would be in Buechel rather than on the Shepherdsville Bus line?

A. I am not exactly sure as to where the 4100 block is.

Q. Now, the place where you arrested Mr. Thompson was the Liberty End Cafe, is that right?

A. Yes.

Q. They call it that because it is right at the end of Liberty Street, is that correct?

A. A few doors from there.

Q. Liberty Street ends at Preston, doesn't it?

A. Yes.

Q. And this was three or four doors from Preston?

A. Yes.

Q. Liberty continues east and then it jogs off

towards the south a few doors from Preston and then turns east again onto Fehr Avenue?

A. Yes.

Q. Within the past few years the City has cut through a curve there—a cut-off and the street turns right off at Liberty and then continues east as Fehr Avenue?

Testimony of Officer William Lacefield

A. Yes.

Q. And it curves over to the end of the set-off?

A. Yes.

Q. You know that it jogs off there?

A. Yes.

Q. And as you approach Preston Street Liberty is one-way east at that point and then it curves to the right and then goes into Fehr Avenue?

A. Yes.

Q. And when Mr. Thompson told you he was waiting for a bus in this Liberty End Cafe, he was actually within about fifty yards of where Liberty Street curves around and goes into Fehr Avenue?

A. Well, the rear end of this building would be closer to Fehr Avenue than the front end.

Q. If you came out the front of the Liberty End Cafe, you would only have to go about fifty yards from the

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beginning of that curve or turn-off?

A. Fifty or sixty feet—yards.

Q. So, if a bus was coming east on Liberty and you wanted to catch it at the corner you would simply have to go around the curve to the corner and catch the bus on Liberty Street?

A. That's correct, but there is no bus stop there at that corner.

Q. You mean to say—

A. (Interrupting). There is no bus stop there at that corner.

The Court: In order to catch the bus there, where would you have to go to catch the bus?

A. You would have to go up to the bus stop, a coach stop.

Q. Is there a coach stop at that corner?

Testimony of Officer William Larefield

A. No, the next coach stop is at Preston and Fehr.

Q. And how far is Preston and Fehr from this place?

A. Approximately a half a block.

Q. Isn't it true that the Buechel and the Fern Creek bus originate at this Union Bus Station at Second Street and runs east on Liberty?

A. Well—

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The Court: Just answer whether that is true or not.

A. As far as the bus route, exactly, I don't know for sure.

The Court: Is that a fact?

Mr. Lusk: Yes. There will be testimony—

The Court: He said he didn't know.

Q. So you can't deny—

The Court: He said he didn't know.

Q. Do you know that the Buechel and Fern Creek busses run on a fixed schedule?

A. No.

Q. Have you ascertained that fact since then?

A. I don't know.

Q. You don't know whether it does or not?

A. No.

Q. Do you have any information about that at all?

A. No.

Q. You say when you arrested Mr. Thompson it was solely because he told you he was there waiting for a bus and you didn't think there was a bus he could be waiting for?

Mr. Dougherty: He said he was horsing around.

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Q. The reason was he told you he was waiting for a bus and you thought there was no bus coming in that direction that went out near his home?

Testimony of Officer William Lacerfield

A. That was one of the small elements.

Q. A part of the reason?

A. Yes.

Q. And another part of the reason was that you say he had been in the place a half an hour and had not bought anything, is that correct?

A. According to the manager.

Q. According to Mr. Marks who is standing here?

A. Yes.

Q. State whether or not Mr. Marks was the only person in the place that could have sold Mr. Thompson anything?

A. Well, he was not the only person, but—

Q. Let's stick to answering the question: There was a counter girl by the name of Blondie Jones, was there not—there was a girl behind the counter serving drinks and food?

A. I don't recall whether she was behind the counter.

Q. Well, she was in the place, was she not?

A. I couldn't say for sure, I don't recall.

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Q. Was there any colored counter girl or waitress in the place?

A. There is one that works there but I don't know where she was.

Q. You don't know whether she was there at the time or not?

A. No.

Q. There was a waiter named Bob—there is a waiter in the place named Bob and he could have served food to Mr. Thompson?

A. I don't know whether he was there or not.

Q. Don't know whether there was a waiter by that name there or not, or any waiter?

Testimony of Officer William Litchfield

A. That's right.

Q. And you say Mr. Marks told you he had not bought anything there, any drinks or any food and had been in there half an hour?

A. Yes.

Q. Now, my next question: Another reason for the arrest was that he was dancing—where was he standing?

A. He was standing approximately four or five feet from the bar, out in the floor.

Q. To get a physical picture of this tavern, it's about forty or fifty feet from the street to the back end?

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A. Well, including the cook room—the back room, it is approximately sixty or seventy feet.

Q. The whole public place would be about fifty or sixty feet long?

A. That's close.

Q. And it is about twenty feet wide—twenty-five feet wide?

A. Something like that.

Q. And around to the left side there is a bar?

A. Yes.

Q. On the left side?

A. Yes.

Q. And around on the righthand side there are about eight booths? *O*

A. Yes.

Q. And it takes in about

Mr. Dougherty—Object. This is most ridiculous.

Mr. Lusk—I will connect it up. I want to get into the record the physical nature of the place.

Q. How many people were in there at the time you arrested Mr. Thompson?

A. I couldn't say exactly but I would judge

Testimony of Officer William Lucefield

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I don't know, twelve to fifteen.

Mr. Dougherty: Is this man the only one that was arrested at the time?

A. At the time, yes.

Q. You say Mr. Thompson was standing about four or five feet from the bar, between the bar and the booths?

A. Yes.

The Court: I thought he said he was in the center of the floor.

Q. About half way between the bar and the booths?

A. Approximately.

Q. About how far in from the door?

Mr. Dougherty: Object to this line of questioning, this man is charged with loitering and he is just asking all of these questions to try to intimidate the witness.

The Court: As far as a dance hall there—did they have a license for dancing in the place?

A. Their license don't include that, I do not think.

Mr. Dougherty: I have another officer over here that knows about that and he says they have no right to dance in there.

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The Court: I am not interested in the physical location, just as to whether or not he has a dance license.

Q. What was he doing when you went in there?

The Court: He said he was dancing.

Mr. Lusk: I want to find out what kind of dancing. Can you show us what kind, officer?

Mr. Dougherty: Object.

The Court: Objection sustained.

Q. Officer, was he doing anything more than shuffling his feet or patting his feet with the music from the juke box?

Testimony of Officer William Larcfield

A. Well, he was dancing by himself on the floor.

Q. Was there anybody else in the place doing the same thing?

A. No, there was not.

Q. Now, was there any other reason why he was arrested, outside of what we have gone over?

A. Not that I recall.

Q. This arrest didn't take place on a public street or thoroughfare or highway.

The Court: He has already stated where it took place. Did you know this man before this time?

A. Not before that time.

Q. As I understood you, when you first came in the place—into the cafe, you went and talked to Mr. Marks,

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the manager, is that correct?

A. I wouldn't say we went directly to him.

Q. Did you talk to Mr. Marks before you talked to Mr. Thompson?

A. Well, he was over there in the same section where Mr. Thompson was.

Q. He was about eight or ten feet from where Mr. Thompson was, is that right?

A. Approximately that, yes.

Q. One other question: Mr. Marks was in charge of the cafe?

A. He is in charge, yes.

Q. Did you tell him at the time of Mr. Thompson's arrest anything about Mr. Thompson having been loitering around the bus station prior to that time?

A. No.

Q. You didn't?

A. No.

Q. One other thing: Did you have any information

Testimony of Officer William Lucefield

that Mr. Thompson had been arrested for loitering in the bus station on January 14th, 1959?

A. Arrested on January 14th?

Q. Did you have information that Officers Suter and Fletcher arrested him in the bus station some time prior to January 24th, 1959?

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A. Not before the arrest but I heard about it later on.

Q. You didn't know about that at all at the time of this arrest?

A. No.

Q. Did Officer Barnett know about that?

A. I couldn't answer that.

Q. Is he in court here today?

A. No.

OFFICER JAMES ELLIS, called by the Commonwealth, being first duly sworn, was examined by Mr. Dougherty and testified as follows:

Q. You are Officer James Ellis?

A. Yes.

Q. Are you acquainted with the saloon at 312 East Liberty operated by this man standing here (indicating)?

A. Yes.

Q. How long have you been on that beat?

A. Off and on for six years.

Q. Is that place licensed for beer and whiskey?

A. Beer only.

Q. Do they have a dance hall license?

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A. No, they don't.

Q. No dance permit in there?

A. No, there is not.

*Testimony of Officer James Ellis***Cross-examination by Mr. Lusk**

Mr. Lusk: Your Honor, I would like to make a motion, for the record, to strike out that line of testimony on the ground that I am not familiar with any license requirement for dance halls.

The Court: Well, there is—you are required to have a permit.

Mr. Lusk: Well, I would like my objection noted in the record.

The Court: All right, motion overruled.

Q. If there is a license requirement of the landlord and not of the—

The Court: He said they had no permit—this is just for the guidance of the Court.

Q. Officer, were you present at the time Mr. Thompson was arrested?

A. No.

The Court: Let's get along, he said, he only testified to one fact and that was the fact

that they had no dance hall permit.

Mr. Lusk: I would like to ask him about that.

Mr. Dougherty: Object.

Mr. Lusk: Can my objection be noted?

The Court: Let the objection be noted.

Mr. Lusk: I think I am entitled to ask him.

The Court: Officer, you say they had no dance hall permit?

A. That's right.

Q. How do you know that?

A. Well, when I came on this beat here the last time, about the 15th of January I went in and seen Mr. Marks and every other police on the beat and checked on the places as to whether they were selling liquor and whether they

Testimony of Officer James Ellis

had a permit for a dance hall and the Liberty End has no permit for a dance hall and don't have a liquor license.

Q. How do you know that?

A. He told me himself.

Q. Marks told you that?

A. Yes.

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Q. Who would issue the license if there is one?

A. Well, you could do it two ways—the beat car would go by and he would make a request and then there would be a letter written and we would report on whether the place is an orderly place or not.

Q. Is it issued by the Police Department?

Mr. Dougherty: Object.

A. I don't know.

Mr. Dougherty: I object to that.

The Court: Let the objection be noted and give him an exception.

Q. Will you tell me whether it is in any way a violation of the law if a customer in an unlicensed place would dance or pat his foot?

Mr. Dougherty: Object.

The Court: Objection sustained.

Mr. Lusk: Note my exception.

The commonwealth here rested.

Mr. Lusk: At this point I would like to ask for a dismissal of the charges, and in order to make my grounds for dismissal clear, I have prepared a written motion which I would like to tender to the Court.

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and have it filed.

The Court: Motion overruled.

Mr. Lusk: May it be filed with the Official Stenographer?

Proceedings

The Court: Yes.

The said paper is filed herewith as part hereof, marked "Exhibit A".

Mr. Luský: A copy has been given to the Commonwealth, and I would also like to file this stipulation which has been agreed to by the prosecuting attorney. It is a stipulation as to what Dr. Dean would say, and this stipulation was to relieve Dr. Dean from having to return to court to testify again—this is in lieu of the testimony given by Dr. Dean in the trial of this same defendant in this court on January 20th, 1959.

Mr. Dougherty: All right.

The Court: Let the stipulation be filed.

The said paper is filed herewith as part hereof, marked "Exhibit B".

Mr. Luský: Your Honor, I am prepared to read you the testimony given by Dr. Dean in the previous case in which he states—

The Court: I remember what he said.

Mr. Luský: Dr. Dean testified this man worked for him one day a week and earned \$12 a week and had

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been working for him and his father for thirty years.

Mr. Dougherty: I agree to that stipulation.

Mr. Luský: I also want to file a transcript of the testimony in the case of Commonwealth of Kentucky vs. Sam Thompson on January 20th, 1959, in which Dr. Wynant Dean testified.

The Court: All right.

The said transcript is filed herewith as part hereof.

Testimony of Sam Thompson

SAM THOMPSON, called in his own behalf, being first duly sworn, was examined by Mr. Lusk, and testified as follows:

Q. You are Sam Thompson?

A. Yes, sir.

Q. And will you state, please, where you live?

A. 4112 Old Shepherdsville Road.

Q. And will you state where that is?

A. In West Buechel.

Q. What bus do you take to get out there, from downtown?

A. Well, I can catch either the Buechel bus or the Fern Creek bus; they are just about an hour apart.

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Q. Does that bus run on a fixed schedule?

A. Both of them do.

Q. Does that schedule show when the bus leaves Second and Liberty at the bus station?

A. Yes.

Q. Do you, by any chance, have a copy of that bus schedule with you?

A. Yes, here it is.

Mr. Lusk: This is the Blue Motor Coach Line schedule, and it shows this is the Buechel Schedule and it shows it leaves from Louisville for Buechel at 6:15 and then again the next one at 7:30.

A. That's right.

Q. The Fern Creek bus schedule shows that there is a bus that leaves from the same station at 6:15 and again at 8:15?

A. Yes, sir.

Mr. Lusk: May there be offered as exhibits?

Mr. Dougherty: They will be being introduced in properly.

Testimony of Sam Thompson

The Court: Let that be filed.

The said papers are filed herewith marked "Exhibits C and D".

Q. Mr. Thompson, do you own any real property?

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A. Yes, I do.

Mr. Dougherty: This is a loitering charge here. There is no charge of no visible means of support.

Mr. Lusk: Can it be stipulated he owns three unimproved lots in West Buechel?

Mr. Dougherty: All right.

Q. Do you own three unimproved lots in West Buechel?

A. Yes.

Q. Adjacent to the property on which the house is located where you live?

A. Yes.

Q. And did you acquire that property from your mother?

A. Yes, sir.

Q. Her name was Eliza O'Bannon?

A. Yes.

Q. You acquired that by deed dated April 24th, 1950, and recorded in Deed Book 2605, Page 466, in the Office of the Jefferson County Court Clerk?

A. Yes, sir.

Q. You acquired that property?

A. Yes.

Q. And do you still own the property?

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A. Yes.

Q. In the stipulation which is filed Dr. Dean testified that you worked for him for some time?

A. Yes.

Testimony of Sam Thompson

Q. How long have you worked for him and for his father before him?

A. Close around for thirty years.

Q. At the present time, for the past several months or years, how often have you worked for him?

A. Every week.

Mr. Dougherty: We stipulated that.

Mr. Lusk: Can it be stipulated that he worked for Dr. Dean every Thursday and made \$12 a day?

Mr. Dougherty: Yes, I imagine that's right.

Mr. Lusk: Then it is so stipulated.

Mr. Dougherty: Yes.

Q. That included the Thursday before January 24th and the Thursday after January 24th?

A. Yes.

Q. On January 31st—did I also engage you to do work for me on Monday January 26th?

A. That's right.

Q. And did you do housework for me on that date?

A. Yes.

Q. And did you get paid for it?

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A. Yes.

Q. How much?

A. \$8 and car fare.

Q. That money that you earned, the \$12 a week was that enough for you to live on?

A. Enough for me to buy my food with.

Q. Do you pay any rent?

A. No.

Q. Do you have any expense other than for food and life insurance?

A. No.

Q. How much do you pay for life insurance?

Testimony of Sam Thompson

A. \$1.50 a week, sick and accident.

Q. \$1.50 a week for a sick and accident policy?

A. Yes.

Q. That leaves you about \$10.50 that you get every week—you earn \$12 and the insurance costs you \$1.50?

A. Yes.

Q. Is that the only fixed expense you have?

A. Yes.

The Court: He has to buy his beer and pay his drug bills and—

The Witness: I don't pay any taxes.

The Court: He has to buy his clothing

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and pay for drugs and his beer and whiskey—I know he drinks that because I can—I have judicial knowledge of that from the fact he comes in here so often.

Mr. Lusky: I want to object to the Court's judicial knowledge.

The Court: Those are facts.

Q. Have you paid any taxes on the property since your mother deeded it to you?

A. Yes.

Q. How long has it been since you paid any taxes?

A. Two years ago the last time.

Q. And have your taxes been delinquent since that time?

A. Yes.

Q. When you say you earn \$12 a day from Dr. Dean for working for him, does that include your bus fare?

A. Yes.

Q. How much is the bus fare?

A. A quarter each way.

Q. So that would leave you \$11.50, is that right?

A. Yes.

Testimony of Sam Thompson

The Court: I am trying to take into consideration whether he can do all those things on \$12 a

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week.

Q. Did Mr. Marks, the manager of the Liberty End Cafe, on the occasion of this arrest—had he made any objection to your being there for that thirty or thirty-five minutes before the officers came in there?

A. He never made any objection whatsoever.

Q. Had you had anything to eat in there?

A. I had a dish of macaroni.

Q. Did you get that from Mr. Marks?

A. I don't believe Mr. Marks was there, it was someone else waited on me.

Q. Who did wait on you?

A. Well, it was either the fellow that works there, a fellow named Bob, or the waitress, one of the two in there.

Q. And did you have a glass of beer?

A. One glass of beer.

Q. Did you get that at the time, same time, you got the macaroni?

A. No, I got that ahead of time.

Q. Did Mr. Marks serve you that?

A. No.

Q. Were you waiting for a bus at that time?

A. I certainly was.

Q. Did you have one with you on that date?

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A. I keep them with me all the time.

Q. Did you have one with you on that date?

A. Yes, sir.

Q. Which bus do you take to get home?

A. Both go the same way, the Fern Creek and the Buchel.

Testimony of Sam Thompson

The Court: What time?

A. That would be about 7:15.

Q. Did you have any money in in your pocket when you were arrested?

A. Yes, sir.

Q. How much?

A. I can't recall, I had some change and a bill—I wasn't broke.

Q. You had some paper money and change?

A. Yes.

Q. So you had over a dollar?

A. Yes, sir.

Mr. Lusk: Your Honor, I am about to offer some testimony to which I anticipate there will be an objection. It relates to other cases before this court involving the same defendant within the past few weeks, and in order to save the Court's time, rather than ask him a long series of question, I have prepared an avowal—

Mr. Dougherty: As to his record, he has

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lots of it and we will go by that.

The Court: Are the records here today?

Mr. Dougherty: Yes.

Mr. Lusk: I want to object to those records.

Mr. Dougherty: The officer testified he didn't know the man was arrested before—I believe he said he never had seen him before.

Mr. Lusk: Nevertheless, I would like to make this avowal if Your Honor excludes the testimony.

Mr. Dougherty: Object to the testimony.

The Court: Objection sustained.

Mr. Lusk: May I file this avowal?

The Court: You can tender it.

Testimony of Sam Thompson

The said paper is filed herewith as part hereof, marked "Exhibit E".

Q. It has been testified that you were dancing at this place at the time of your arrest; I will ask you whether you were dancing at the time the officers came in there?

A. I was patting my foot to the tune of the music—I was not dancing—the place was crowded—it was on Saturday night and the victrola was on.

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Q. How many people were in there?

A. It was anywhere from twenty to thirty people in there.

Mr. Lusky: Will the Court permit the defendant to show what he was doing?

The Court: No, he already stated what he was doing.

Q. Did Mr. Marks or any waiter or waitress object to your dancing or tapping your foot?

A. No, sir.

Q. Were other people in the place doing the same thing?

A. The place was crowded, it was on Saturday night and people will tap their feet and pat their feet that way.

Q. Other people were?

A. Yes, other people on the floor besides me.

Q. Did you have a partner?

A. No.

Q. You were dancing by yourself?

A. Just patting my foot—tapping my foot.

Q. Were you talking to somebody in a booth?

A. I had been talking to a lot of people in the booths.

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Cross examination by Mr. Dougherty

Q. You were the only one out in the middle of the floor gyrating around?

A. I wasn't the only one because the place was crowded.

Q. You say you talked to some people in the booth?

A. Yes.

Q. Who were you talking to in the booth?

A. Different ones.

Q. Name one of them.

A. Well, I ~~could say~~ there was a fellow named Cliff.

Q. Is he here today?

A. No.

Q. Did you ask him to come down as a witness?

A. No, I haven't been in the place since.

Q. Did you bring Mr. Marks down as a witness?

A. No.

Q. You don't know how he come to be here?

Mr. Lusk: I subpoenaed him.

Q. How often do you go in that place?

A. I used to go in quite often waiting for the bus but I don't go anymore. I can wait there and go around to the corner and catch the bus very easily.

Q. When the officer came in there you saw him go

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over and talk to Mr. Marks?

A. I didn't pay any attention to that.

Q. Did you see the officer when he first came in there?

A. Yes.

Q. What did he do when he first came in there?

A. He came over and asked me my name.

Q. He didn't talk to Mr. Marks?

Testimony of Sam Thompson

A. I didn't see that.

Q. You don't deny that he did?

A. No.

Q. You didn't hear Mr. Marks tell the officers that you were in there for about a half an hour and had not bought anything?

A. No, sir.

Q. You didn't hear Mr. Marks talking to the officers?

A. No.

Q. You had been in there for a half an hour?

A. I went in there and got a glass of beer and this dish of macaroni.

Q. Just one beer?

A. In that place, a ten cent glass.

Q. Does this schedule show the bus leaves at 7:15?

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A. Yes.

Q. Where is that on the schedule? (Indicating) Where is that?

A. On there (indicating).

Q. Show me where it says 7:15.

A. It is 6:15 and then an hour later.

Q. You said 7:15, and show me where that is on there.

Mr. Lusk: It is 7:30.

Q. But there is no 7:15 like you said awhile ago on here?

Mr. Lusk: The record will show I was the one that said 7:30.

Mr. Dougherty: He said 7:15.

The Witness: Well, I didn't have a watch on and I didn't know the time.

Q. You didn't know what time the bus was due?

A. Yes.

Q. How could you tell that it was that time?

Testimony of Sam Thompson

A. By looking at the clock.

Q. A clock in the place?

A. Yes.

Q. Then there is no 7:15 bus?

A. There is a 6:15 and

Q. You were arrested at 6:40?

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A. In that neighborhood.

Q. The bus had already passed you by?

A. I guess the 6:15 bus had, yes.

Q. You didn't know this officer that arrested you?

A. No.

Q. He never had arrested you before?

A. No.

Q. You have never had any dispute with him of any kind before?

A. No.

Q. When you got outside you made some remarks to him?

A. No. Actually, I didn't think I was being locked up because the officer stood out there and talked to me for about five or six or seven minutes before the other one called the wagon.

Q. What kind of an argument did you and the officer have on the outside?

A. There was no argument.

Q. Were you in any way belligerent towards them?

A. No, we just stood out there and talked for a few seconds and the other one came up and said "What's the idea?" and they locked me up.

Q. Were you in any way disrespectful to the officers?

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A. Yes, I was. I have never been any other way. I didn't ask them what they arrested me for.

Testimony of Sam Thompson

Q. You didn't argue with them, but just asked them what they were arresting you for?

A. Yes, I asked what he was locking me up for and he said for loitering and vag.

Q. Did you make any reference to the fact that you were arrested the week before—a couple of weeks before, at the bus station?

A. No.

WILLIAM MARKS, called by the defendant, being first duly sworn, was examined by Mr. Lusky, and testified as follows:

Q. What is your name?

A. William Marks.

Q. Where do you live?

A. 814 South Preston.

Q. And what is your occupation?

A. Manager of Liberty End Cafe.

Q. Are you here pursuant to subpoena?

A. Yes, sir.

Q. You heard the officers' testimony about the event in the Liberty End Cafe at about 6:53 p.m. on

January 24th, 1959?

A. Yes.

Q. Tell the Court, please, what happened when Officers Lacefield and Barnett entered the place?

A. Officer Barnett was talking to me and I was sitting on a stool—I had a full joint in there and there was two or three in the floor and he asked me how long that fellow had been in there and I said "Which one?" and he said "The one with his back turned" and I said about thirty or thirty five minutes and he asked me I had told him

Testimony of William Marks

any thing to eat and I said no and he said any beer and I said no and then he went over and arrested him.

Q. Did he say anything to you about the bus station?

A. I didn't hear that.

Q. Did you hear him say anything about the bus station?

A. He just said he had been in something down at the bus station.

Q. He did say something about the bus station then?

A. Yes.

Q. Did he give you any particulars?

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A. No.

Q. Just said Mr. Thompson had been in something in the bus station?

A. Yes.

Q. At the time the officer came in there, as he testified, Mr. Thompson was dancing by himself. What did you see him doing?

A. I didn't see him doing anything but standing there in the middle of the floor and patting his foot—he was moving his foot and going down like this (indicating).

Q. Did you object to him patting his foot?

A. No, I just happened to notice it—we don't allow any dancing there. I don't allow any couples to do any dancing there.

Q. You don't have a dance license on the place?

A. No.

Q. Does the lack of a dance license forbid anyone from doing what Mr. Thompson was doing?

Mr. Dougherty: Object.

Mr. Lucky: I would like to make an avowal that the witness, if permitted to answer, would testify, and the same was true, that the lack of a dance license in this

Testimony of William Mark

establishment would not enable him to prevent what Mr. Thompson was doing at the time of his arrest.

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Q. You were the manager of the premises on that day?

A. Yes.

Q. You were the controller of the premises?

A. Yes.

Q. Did you at any time during Mr. Thompson's stay there object to anything he was doing?

A. No, sir.

Cross examination by Mr. Dougherty

Q. How many people were in there at the time the police came in?

A. About twenty-five.

Q. Most of them in booths?

A. Lots of them standing out in the floor and a few in booths.

Q. Mr. Thompson was the only one that was shuffling around?

A. Well, there was two or three out there in the middle of the floor.

Q. But Mr. Thompson was dancing?

A. He was shuffling around.

Q. Doing a kind of a shuffle dance?

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A. Yes.

Q. You didn't want that in your place?

A. No.

Q. He was the only one doing that?

A. There was two or three on the floor.

Q. Does this fellow Thompson come there often?

A. Yes.

Q. You are not the owner of the place?

Testimony of William Marks

A. No.

Q. Who is the owner?

A. Mr. Robertson.

Q. A white fellow?

A. Yes.

Q. Where does he live?

A. He lives out on Preston Street somewhere, he works for the International Harvester.

Q. How long have you known him?

A. Well, he has only had the place since July of '58—I have been there eleven years.

Q. And you don't know his first name?

A. I kind of think it is John.

Q. Does he come around there often?

A. No.

Q. You do know this fellow Thompson had been there for half an hour and had not eaten anything?

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A. I didn't see him eat anything.

Q. If he had had anything to eat or to drink you would have known about it?

A. It seems like I would.

Q. Because you were there all the time?

A. Yes.

Q. How close was he to you at that time?

A. About from here to over there (indicating).

Q. If he had ordered anything from anybody else, would you have known about it?

A. Well, I don't know.

Q. Well, wouldn't you know?

A. Well, there is a girl that works there.

Q. But you never saw him buy anything?

A. No, that don't mean he didn't buy anything, he was standing out there on the floor.

Testimony of William Marks

Q. Is he a regular customer there?

A. Well, he has come in there pretty often.

Q. But you didn't want him in there dancing if you didn't have a dance license?

A. No.

Q. You would object to that?

A. Yes.

Q. And you told the police that?

A. Yes.

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Redirect Examination by Mr. Lusky

Q. You never did tell Mr. Thompson that he was unwelcome in your place?

A. No, I never told him that.

Q. If you had seen Mr. Thompson doing anything out of the way in the Liberty End Cafe, you would have told him about it?

A. Yes, but a man can't see everything that goes on with *at* crowd like that unless it would be disorderly.

Q. You would have objected to it if he was doing anything out of the way?

Mr. Dougherty: Object.

The Court: He said he didn't want that going on.

Q. What?

A. Dancing is what I was talking about.

Q. You never saw him do anything that would cause you to have any objection?

A. That's right.

Q. I believe you had a waiter there, as you said, by the name of Bob something?

A. Well—

Q. Or Cliff?

A. No, no Cliff.

Testimony of William Marks

Q. You had a waiter working in the place?

A. That boy don't work there.

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Q. Did you have anybody else to help in there?

A. Well, the boy was back in the kitchen—back there washing dishes.

Q. Were you actually in the place all the time or did you go back into the men's room or back in the kitchen at any time while he was there?

A. I told you I was sitting on a stool.

Q. From the time he came in there?

A. Well, I couldn't tell you that.

The Court: He said the man was there about thirty or thirty-five minutes before the officers came in.

Mr. Lusk: I am trying to find out whether some waitress in there could have waited on Mr. Thompson.

Mr. Dougherty: It looks like the waitress would be the best evidence.

Mr. Lusk: I proposed to subpoena the girl, but Mr. Marks asked me not to subpoena both of them because he would have to close up the place if they both took off, and for that reason we don't have her here.

The Court: All right.

The defendant here rested.

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Mr. Lusk: Your Honor, I desire to renew my original motion for a dismissal.

The Court: Motion overruled—let the motion be filed and overruled.

The said paper is filed herewith as part hereof, marked "Exhibit F".

Testimony of William Marks

Mr. Lusky: After it is filed, I would like to argue the case on the basis of the transcript after it is prepared within a few days.

Mr. Dougherty: I object to that. This man has a long record and every time Mr. Lusky comes into this court he wants to make a big case out of a minor one. Here is the man's record.

Mr. Lusky: Object to that.

The Court: Let the record show that the prosecutor has shown me a record for this defendant totaling fifty four arrests.

Mr. Lusky: Object to that. Will the Court give me permission to examine those cards?

The Court: Certainly.

Mr. Lusky: I will look at them later on.

Mr. Dougherty: That's all, Your Honor.

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The Court: Let the judgment be a \$10 fine on each charge.

Mr. Lusky: I want to offer a further motion which I have written out "Application for Stay And For Bail".

The Court: Let it be filed and overruled.

The said paper is filed herewith as part hereof, marked "Exhibit G".

Mr. Dougherty: I certainly object to any motion of that sort.

The Court: I don't think I have a right to do that. I only have jurisdiction over these matters for twenty-four hours and I will suspend judgment for twenty-four hours, if you wish it.

Mr. Lusky: What is this twenty-four hours?

The Court: It is in the statute that I can suspend judgment for twenty four hours, unless you can show me

Testimony of William Marks

otherwise.

Mr. Lusk: That means that we will take it up tomorrow at eleven o'clock?

The Court: We will take it up after court is over tomorrow.

Mr. Lusk: Your Honor, I wish to file this motion for a new trial.

The Court: Motion overruled.

The said paper is filed herewith as part hereof, marked "Exhibit H".

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State of Kentucky {
County of Jefferson {

I, James G. Warren, Official Stenographer of Police Court of Louisville, Kentucky, do hereby certify that the foregoing is a full, true and correct transcript of all the testimony taken in the above styled action.

Witness my hand this 4th day of February, 1959.

(s) James G. Warren
Official Stenographer,
Police Court of Louisville, Ky.

EXHIBIT A.

POLICE COURT OF LOUISVILLE
No. B9174

Commonwealth of Kentucky and
 City of Louisville,

Plaintiffs

v.

Sam Thompson,

Defendant

**MOTION TO DISMISS AT CLOSE OF
 PROSECUTION'S CASE.**

Comes now the defendant by counsel at the close of the case for the prosecution and moves for dismissal of the charges against him on the grounds that there is no evidence to support said charges and on the further ground that a judgment of conviction on this record would deprive him of liberty and property without due process of law in violation of the Fourteenth Amendment to the United States Constitution in that, among other things, the present charges have been made against him for no other reason than that he incurred the displeasure of certain members of the Louisville Police Department by exercising his constitutional right to retain counsel and demand a judicial hearing on certain other charges which were preferred against him by City of Louisville police without legal cause on January 10, 1959, and January 14, 1959, wherefore the effect of a conviction in this case, in the absence of any evidence of guilt, will be to implement and further the aforesaid effort to penalize his exercise of his said constitutional rights to legal representation and a judicial hearing, and deny him redress for said arbitrary and unlawful arrests.

(s) Louis Lusky

Attorney for Defendant

EXHIBIT B.**POLICE COURT OF LOUISVILLE**

No. B9174

Commonwealth of Kentucky and

City of Louisville,

Plaintiffs

v.

Sam Thompson,

Defendant

STIPULATION.

The parties by their respective counsel hereby stipulate and agree that if Dr. Wynant Dean were called as a witness his testimony would be the same as at the trial held January 20, 1959 at the trial of Commonwealth of Kentucky v. Sam Thompson, as shown by the transcript of said hearing filed herewith, which said transcript is authenticated by the certificate of the official stenographer dated January 28, 1959; and the parties further stipulate and agree that Dr. Dean, if called as a witness, would testify that Sam Thompson, the defendant herein, worked at Dr. Dean's home a full day on Thursday, January 22, 1959 and Thursday January 29, 1959, and was paid \$12 for each such day's work, and that prior to January 24, 1959, he had agreed with said defendant that the defendant would so work at his house on January 29, 1959.

This stipulation may be filed in evidence by either party in lieu of Dr. Dean's testimony.

Dated: February 3, 1959.

(s) John H. Dougherty
Police Court Prosecutor,
Attorney for Plaintiffs

(s) Louis Lusky
Attorney for Defendant

EXHIBIT (Testimony of January 20, 1959).

POLICE COURT OF LOUISVILLE

Commonwealth of Kentucky,

Plaintiff.

v.

Sam Thompson,

Defendant.

VAGRANCY AND LOITERING.

Louisville, Ky., January 20, 1959.

This case coming on to be heard before His Honor, Judge Hugo Taustine, the following proceedings were had:

Appearances:

For Plaintiff: Mr. John Dougherty.

For Defendant: Mr. Louis Lusky.

Marvin H. Morse.

OFFICER SUTER, called by the Commonwealth, being first duly sworn, was examined by Mr. Dougherty, and testified as follows:

Mr. Dougherty: Were these four people arrested together?

Officer Suter: Yes.

Mr. Dougherty: Who is this (indicating)?

Mr. Hill: I am William Hill.

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Mr. Dougherty: Who is Henry Usell?

Mr. Usell: Here I am.

Mr. Dougherty: And who is Robinson?

Mr. Robinson: Here I am.

Mr. Dougherty: And who is Mr. Thompson?

Testimony of Officer Suter

Mr. Thompson: Here I am.

Mr. Lusky: I represent Thompson only and I want a separate trial for him.

Mr. Dougherty: The officer's testimony would be the same in all cases and he said they were arrested together.

Officer Suter: They were in the waiting room together.

Mr. Lusky: But I want a separate trial for my client, Sam Thompson.

The Court: All right, we will try Sam Thompson first. Let everybody be sworn.

Q. Officer Suter, you arrested Mr. Thompson on the 14th of January of this year and charged him with vagrancy and loitering. At what time did you arrest them on that date?

A. It was approximately 3:45 p.m.

Q. Whereabouts?

A. At the Union Bus Station.

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Q. In what part of the station?

A. He was seated on a bench in the waiting room—the colored waiting room.

Q. How did you happen to go there?

A. We always make a fair check of that bus station, and when I entered the dispatcher stated to me that some colored men were in the waiting room drinking.

Mr. Lusky: Object.

The Court: Is the dispatcher here?

Officer Suter: No.

The Court: Objection sustained.

A. (Continuing) I went there and found these four men and Robinson had a bottle of wine and Thompson was sitting there with him.

Mr. Lusky: Object.

Testimony of Officer Suter

Mr. Dougherty: You found both of these men sitting there together and Robinson had a bottle of wine.

Mr. Lusk: Object.

A: I smelled wine on this man's breath (indicating the defendant Thompson) and I charged Thompson with vagrancy and loitering because he didn't give me any proof as to working anywhere.

Q: Where did he tell you he lived?

A: He said he lived at 4112 Old Shepherdville

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Road

Q: And what did he say as to his employment?

A: He told me he was not working at the time.

Q: Did you find any money on him?

A: No.

Q: Did he give any reason as to why he was loafing around the bus station?

A: He claimed he was waiting to catch a bus there to go out to the Old Shepherdville Road where he lived.

Q: This was at what time?

A: 3:45 p.m.

Q: That was on a Wednesday?

A: Yes.

Q: All these things happened here in Louisville, Jefferson County, Kentucky?

A: Yes, sir. He also has a previous record.

Mr. Lusk: Your Honor, object to any previous record.

The Court: A felony record?

A: Yes, sir.

Mr. Lusk: Your Honor, may I see this?

The Court: Yes.

Mr. Lusk: This card says "Filed away

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with leave to reinstate."

Testimony of Officer Suter

Mr. Dougherty: Here is one that says "Plea of guilty" that's the same man, it says "Preacher" and that's the same man, he goes by that name; he is known as "Preacher".

Mr. Lusk: Your Honor, I insist that counsel confine himself to a felony record if he has one.

The Court: Your client can explain that.

Mr. Lusk: There has been some talk about him having been convicted of a felony.

The Court: Can't you bring that out when you put your client on?

Mr. Lusk: This card says in 1935, that was twenty-four years ago, and it said the man is forty on this card. How old are you now?

Mr. Thompson: Forty-six.

Mr. Lusk: The man on this card would be twenty years older than the defendant in this case.

Officer Suter: Well, I just got that from the record room.

Mr. Dougherty: That was storehouse breaking some years ago.

Mr. Lusk: That was in 1935.

Officer Suter: Yes.

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Mr. Lusk: Twenty-four years ago.

Mr. Dougherty: That is when he was arrested before.

Mr. Lusk: And it said the man was forty years old then.

Officer Suter: Yes.

Mr. Lusk: So if this is the same person he would be sixty-nine years old now. Do you claim this is the same man, Officer?

Officer Suter: I don't know.

The Court: I will sustain your objection, Mr. Lusk.

Testimony of Officer Suter

Mr. Lusky: And I want all that testimony excluded from the record.

Cross examination by Mr. Lusky

Q. You say on the afternoon of January 14th, 1959, a little before 3:45, you arrested this man?

A. Yes, sir, approximately.

Q. I thought you said 3:45 was when he was arrested?

A. I said approximately that.

Q. And a little before that time you say you entered the Union Bus Station at 213 West Liberty?

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A. Yes.

Q. And that there were some colored men, including Mr. Thompson, in the waiting room at the time?

A. Yes, it was full.

Q. Where was Mr. Thompson sitting or standing?

A. He was sitting on the center bench.

Q. Which way was he facing?

A. Towards the lunch counter.

Q. You say he was sitting there with another man?

A. Yes, with Robinson.

Q. He is one of the gentlemen here?

A. Yes.

Q. Which one?

A. That one there (indicating).

Q. Owen Robinson?

A. Yes.

Q. What was he doing?

A. Talking to him.

Q. Did he have anybody else sitting on the other side of him?

A. There was some other people sitting there. I may have arrested one of them.

Q. A man or a woman?

Testimony of Officer Suter

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A. A man.

Q. He was not talking to any woman?

A. No.

Q. You say you checked them: What did you say to Mr. Thompson?

A. I asked him to let me see his identification.

Q. What kind of identification did you mean?

A. Social Security number.

Mr. Dougherty: That is pretty obvious.

A. (Continuing) Social Security and pay receipts and he couldn't show me any pay receipts. I have arrested him before and I know him.

Mr. Lusk: Object.

The Court: You had known this man before?

A. Yes.

Mr. Dougherty: You have made previous arrests of this man?

A. Yes.

Mr. Lusk: Object to any testimony about previous arrests.

The Court: I will have to overrule that objection.

Mr. Lusk: Exception.

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Q. Now, you say you asked him for identification: You didn't have to do that because you say you knew who he was?

A. That's right.

Q. But you wanted to find out whether he was working or not, is that right?

A. That was the main thing.

Q. What else did you intend to find out from this investigation?

A. Well, another reason was why he continued to

Testimony of Officer Suter

loiter around this bus station.

Q. Did you ask him for papers—

A. Yes.

Q. Why did you ask him to produce identification?

A. To prove whether he was working or not; he had no pay receipts.

Q. Did he show you a bus schedule he had in his pocket?

A. No.

Q. Did you ask him if he had a bus schedule?

A. No.

Q. When you asked him for the pay receipts did you also ask him if he had been working?

A. Yes.

Q. What did he say?

A. He said to me that he had not worked for a while that the weather was cold. I believe he said that he did some kind of outside caretaker.

Q. Outside caretaker?

A. Yes.

Q. Actually, you knew that his left arm had been injured the previous Saturday, didn't you?

A. No.

Q. You didn't know that?

A. No. What would be the occasion for me knowing that?

Q. I didn't ask you what the occasion was, but I asked you whether or not you knew his arm had been injured.

A. Why should I know that?

Q. Then your answer is "No"?

A. I didn't know that he had injured his arm.

Q. Now, you say Thompson was talking to Mr. Robin

Testimony of Officer Suter

son and was not talking to any woman?

A. Correct.

Q. And you say you asked him whether or not he had been working and he said it had been too cold for him to work because he did outside work?

A. Yes.

Q. Did you ask him whether or not he had any

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means of support other than working?

A. Offhand, no, sir.

Q. Did he show you anything relative to his having a job?

A. He didn't.

Q. You say he told you he did outside caretaking work?

A. Yes.

Q. Did he say what kind of people he worked for?

A. No, I just presumed he did gardening work.

Q. Was it your assumption also that gardeners get a pay slip with their pay?

A. I didn't know.

Q. You just arrived at the assumption he had no legitimate work?

A. He could not prove it to me.

Q. Do you have any concrete evidence that he had no visible means of support?

A. Well, he continually hangs around the bus station day and night and I don't see when he could do any work.

Mr. Lusk: Your Honor, I object to that.

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A. I have been on that beat for three years.

Q. When do you see him at the bus station?

A. Day and night.

Q. Are you there day and night?

A. Yes, I work on a split shift, I change shifts and

Testimony of Officer Suter

when I am on day work I see him there and when I am on night work I see him there.

Q. Do you see him there day and night?

A. Yes.

Q. You see other people there at the bus station day and night?

A. Yes, riding the busses.

Q. Are you testifying that he don't ride that bus often?

A. I have never seen him catch one.

Q. Did you ask him, when you arrested him, whether he was trying to catch a bus?

A. Yes.

Q. And he told you he was?

A. Yes.

Q. Did you doubt him?

A. Yes, from the proof he gave me.

Q. Actually, you go to that bus station to get a bus to go out to Old Shepherdsville Road?

A. Yes.

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Q. Near Buechel?

A. Yes.

Q. So you doubted he was trying to catch a bus?

A. Not at that particular time.

Q. And you charged him with vagrancy and loitering because you didn't believe he was trying to catch a bus to Buechel?

A. It's according to what time he wanted to catch the bus.

Q. What time did you want him to catch it?

A. Dougherty: That's immaterial.

Q. Did you ask when the next bus to Buechel was?

A. No.

Testimony of Officer Suter

Q. Do you know whether or not the Buechel bus left there and the Fern Creek bus left there within a short time after he was arrested?

A. I have no idea because I didn't check that.

Q. He did tell you he was trying to catch a bus?

A. Yes.

Q. But you arrested him nevertheless?

A. Yes.

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The Court: Officer, you testified he had no money?

A. That's correct.

The Court: Did he have a bus ticket?

A. I didn't see any.

Q. (By Mr. Dougherty): Is there a record over at the property room to show what property he had when arrested?

A. He should have a property receipt.

Q. Do you have that here, Officer?

A. He should have the property receipt.

The Commonwealth Here Rested.

Mr. Lusk: I move for a dismissal because the grounds don't fit the category of either loitering or the vagrancy statute.

The Court: I am familiar with the ordinance and the statute and unless you show me something we will overrule the motion.

Mr. Lusk: Exception.

Mr. Dougherty: That's all we have.

Mr. Lusk: Your Honor, would you allow me to waive the order and call Dr. Dean?

The Court: Yes.

Testimony of Dr. Wynant Dean

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DR. WYNANT DEAN, called for the defendant, being first duly sworn, was examined by Mr. Lusk, and testified as follows:

Q. State your name?

A. Wynant Dean.

Q. Where do you live?

A. 1629 Cowling.

Q. What is your profession?

A. Physician.

Q. How long have you lived in Louisville?

A. I was born here.

Q. How long have you known the defendant, Sam Thompson?

A. I would estimate about thirty years.

Q. Has he worked for you during that period?

A. Yes.

Q. Did he work for your father before he worked for you?

A. Yes.

Q. Has he worked for you up to the present time?

A. Yes.

Q. What kind of work does he do for you?

A. Well, it is housework.

Q. How often does he work for you?

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A. On Thursdays.

Q. Every Tuesday?

A. Yes.

Q. Did he work for you on the Thursday before January 14th, which would be January 8th, on Thursday?

A. Yes.

Q. And did you pay him for that?

A. Yes.

Testimony of Dr. Wynant Dean

Q. How much?

A. \$12.

Q. Is that his usual pay?

A. Yes.

Q. Was he, or not, to come to work for you on the 15th of January, the day after his arrest?

A. Yes.

Q. Had that been arranged before January 14th?

A. Yes, it has always been that way.

Q. That is regular?

A. Yes.

Q. Did he, in fact, work for you on January 15th?

A. Yes.

Q. The day after his arrest?

A. Yes.

Q. And did you pay him \$12 for that day?

A. No, I paid him \$10 for that day.

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Q. \$10 for that day?

A. Yes.

Q. When do you pay him \$12 and when do you pay him \$10?

A. It depends upon the actual amount of work that is done. It is related to the hours spent—sometimes he spends eight hours and sometimes ten hours, and this time he spent eight hours.

Q. Do you know why Mr. Thompson worked for you less than a full day on the 15th of January?

A. Yes, he worked less than a full day.

Q. Was that because of some injury?

A. Not to my knowledge.

Q. Why was it?

A. Well, on the 15th of January was the day he went to your office, was it not?

Testimony of Dr. Wynant Dean

Q. The day after his arrest.

A. Yes.

Q. So he didn't come there until late?

A. That's right.

Cross-examination by Mr. Dougherty

Q. You don't know whether he worked any place

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do you?

A. I have known of other places he worked but I don't know of any place that he works now.

Q. Do you know anything about his reputation for hanging around this bus station?

Mr. Lusky: Object.

A. No, sir.

The Court: If he knows it.

A. No.

Q. And you don't know that he was drinking wine on this occasion?

Mr. Lusky: I object.

A. I wouldn't have any knowledge about that.

Mr. Lusky: Was there any testimony that he was drinking wine?

Mr. Dougherty: The officer testified the other man had a bottle and this man had wine on his breath.

SAM THOMPSON, called in his own behalf, being first duly sworn, was examined by Mr. Lusky, and testified as follows:

Q. State your name?

A. Sam Thompson.

Q. Where do you live?

20

A. 4112 Old Shepherdsville Road.

Testimony of Sam Thompson

Q. How long have you lived there?

A. Since 1950.

Q. In 1950 did you acquire from your mother title to some property on Old Shepherdsville Road?

A. Yes.

Q. Real property?

A. Yes.

Q. Is this the deed to the property (indicating)?

A. Yes, sir.

Mr. Lusky: For the record, I will say this is a deed from Lizzie Oberan who is your mother, to Sam Thompson, deed No. 2450, recorded in Deed Book 2605 Page 466, in the Jefferson County Clerk's Office.

A. Yes.

Q. This real property consists of what?

A. Three lots.

Q. Where are those lots with reference to the property you live in?

A. On the righthand side of old Shepherdsville Road.

Q. And you live in the house adjacent to these lots?

A. Right next door.

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Q. Who owns the house?

A. Well, I am the up-keeper of the house.

Q. By that you mean that you keep up the house for the owner and they let you live there rent free?

A. Yes.

Q. You are the sole owner of these lots?

A. Yes.

Mr. Lusky: Your Honor, I have the tax bills on them. The Court: That's not necessary.

Q. Did you go from your home to Louisville on January 14th—what time?

A. It was about ten minutes after one o'clock—it

Testimony of Sam Thompson

takes the bus at least thirty minutes to come in town—the Buechel bus.

Q. What was the purpose of your coming in town?

A. I brought in some old junk to sell to a junk dealer.

Q. Where did you get the junk from?

A. From my home.

Q. You brought some junk in and sold it to a junk dealer?

A. Yes.

Q. Where is that junk dealer located?

A. Preston and Liberty.

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Q. Where did you get off the bus?

A. Preston and Jefferson.

Q. What did you do then?

A. I went to the junk store.

Q. Did you sell the junk?

A. Yes, it only brought about ninety cents—just a lot of old junk.

Q. How much money did you have when you came in?

A. Well, I had some change—I had a dollar—the fare from Buechel is twenty cents—you don't get a ticket.

Q. When you got off the bus how much money did you have?

A. I went over—I don't recall, I got ninety cents for the junk and I came back to Jefferson Street and went into the fish market and bought a roll of oysters and I had a fish sandwich and a cup of coffee—

Q. How much did you pay for that?

A. Forty-six cents, and then I went down the street—I came down Jefferson Street to another place, I believe they call it Happy's Cafe—I had been there previously and owed the man in there a quarter and I stopped in to pay the quarter I owed him and bought a bottle of soft

Testimony of Sam Thompson

drink—

• Q. Did you have any money left?

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A. I had seventy or seventy-one cents left.

Q. And where did you go from there?

A. I went down to Sixth and Jefferson—walked down to Walnut—well, I walked around a while, mostly waiting for the time for the bus to go out.

Q. Does that bus run on a schedule?

A. Yes.

Q. It runs about how often—

A. It has about the same schedule.

Q. It runs on a schedule?

A. Yes.

Q. Did you have a schedule in your pocket at the time the officer arrested you?

A. Yes.

Q. Well, you came back down Jefferson to the bus station which is between Liberty and Jefferson on Second?

A. Yes.

Q. About what time was that?

A. I will say between a quarter past three and a quarter to four.

Q. It was between a quarter past three and a quarter to four?

A. Yes.

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Q. Was there a bus to Fern Creek or Buechel that you could catch at that station before 4:40?

A. I believe the Buechel bus leaves a few minutes before the Fern Creek bus and you can catch the bus at the Union Bus Station.

Q. When you got to the bus station, what did you do?

A. I got a drink of water at the fountain and went out

Testimony of Sam Thompson

on Jefferson Street—I stopped to get a drink of water and Miss Ford was sitting on the bench facing Jefferson Street and I went over there and sat down and talked to her and was talking to her when the officers walked in.

Q. How long had you known this Miss Ford?

A. Since I had been out there.

Q. She is a neighbor of yours?

A. Yes.

Q. State whether or not you had ridden the bus together?

A. Oh, yes, her sister does more than she does.

Q. Was she a friend of your mother's?

A. Yes.

Q. Now, you say you sat in the waiting room and talked to Mrs. Ford?

A. Yes.

Q. Which way were you facing?

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A. I was facing Jefferson Street when the officers came in—one came in the side door and the other officer came in the front of the Jefferson Street side.

Q. What happened then?

A. Immediately when he walked in he looked at me and told me to get up and he pointed at different ones—this fellow and that fellow (indicating) and I asked him who he was talking to and he said “I am talking to you, get up” and I said “for what?” and he said “Get up” and I said “What are you locking me up for, I am going to catch the Fern Creek bus and he stood me against the wall and then picked up the other guys—

Q. Did you talk to the other men?

A. Not inside.

Q. Did you talk to them outside?

A. No. I have seen some of them from time to time

Testimony of Sam Thompson

in the station.

Q. Were you talking to anybody other than Miss Ford at the time the officers walked in?

A. No.

Q. Did Officer Suter ask you how much money you had?

A. No, he didn't ask me that.

Q. Did he search you?

A. He just patted me around like that (indicating).

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Q. Did he put his hand in your pocket?

A. No.

Q. Did he ask you if you had bus fare?

A. No.

Q. Did you have bus fare?

A. Certainly.

Q. You have been riding those busses for how long?

A. Ever since I have been out there, since 1950.

Q. Did the dispatcher at the bus station make any objection to your being there?

A. No, he didn't because—

Q. Was Mr. Robinson sitting on the same bench with you when the officer came in?

A. No.

Q. Do you know where he was?

A. He was sitting on the other side of the bench.

Q. You had not said anything to him?

A. No, sir, I was talking to Miss Ford.

Q. Had you drunk any wine that day?

A. No.

Q. Had you had anything else besides water?

A. No—well, I had this Seven-Up—Cream Soda.

Q. Officer Suter said he smelled wine on you,

Testimony of Sam Thompson

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is that true, or not?

A. No, it is not.

Cross-examination by Mr. Dougherty

Q. You say you didn't talk to these men inside: Did you talk to them outside? What did you say to them outside?

Mr. Lusky: Object; he said he didn't talk to them outside.

The Court: Let him ask him.

Mr. Lusky: That's a misleading question.

Mr. Dougherty: You are supposed to mislead on cross-examination.

A. Well, this fellow here (indicating) asked me for a match.

Q. You have seen him there many times?

A. I have seen him there.

Q. And you have been in that bus station many times?

A. Quite often.

Q. You know that a lot of perverts hang around that bus station?

Mr. Lusky: Object.

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The Court: If he knows he can answer.

Q. You know that, don't you?

A. It is none of my business what they do.

Q. But you know they hang around there?

A. Well, I guess they hang around everywhere.

Q. That's the reason these police visit that place to catch these winos who make dates?

Mr. Lusky: Object.

Q. You have been arrested there before for loitering?

A. I certainly have.

Testimony of Sam Thompson

Mr. Lusky: Object to previous arrests.

The Court: I will have to overrule the objection.

Mr. Lusky: Exception.

Q. How many times have you been arrested for loitering?

Mr. Lusky: Object.

Q. About how many times?

A. Well, I don't know, like I said, I have been riding the bus—

The Court: He asked how many times you have been arrested on a similar charge.

A. Well, Mr. Suter always arrests me when I go

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there to catch the bus to go to Buechel—

Q. (Interrupting) You have been convicted on that too, have you not?

A. Not lately?

Q. How often—

Mr. Lusky: May it please the Court, can I have a continuous objection to this line of questioning?

The Court: Yes, we will note your objection.

Q. When they brought you down the station house they searched you, didn't they?

A. Yes.

Q. And took your property, didn't they?

A. Yes.

Q. What property did they take off of you?

A. Well, everything—took my billfold and I had a bus schedule—

Q. Were you given a receipt for that?

A. Yes.

Q. Where is the receipt they gave you for your money and your property?

A. Well, they took it downstairs—they sent it down

5.5
Testimony of Sam Thompson

to the property room.

Q. When they took it to the property room, they

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gave you a receipt, did they?

A. Yes.

Q. Where is that receipt?

A. Down in the property room.

Q. You turned it in when you got your property?

A. Yes, I had to.

Q. Did you get any of it back?

A. Yes.

Q. How much money did you get back?

A. Well, at one time I got \$5—

Q. And that \$5 would show on your property receipt—
that was—

A. (Interrupting) That was another time.

Q. I am talking about this time.

A. Well, I only had some change this time and they
don't take the change at all.

Q. Didn't they check in your property at this time?

A. Well, they took my fingernail clip and my keys to
the house and the bus schedule and my billfold.

Q. Did they give you a receipt for that?

A. Yes.

Q. Where is that?

A. I turned that back in in order to get my stuff back.

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Q. But it didn't show you had any money on that
receipt?

A. Well, I just had some change and they let you keep
your change.

Q. How much was that?

A. I think seventy cents.

Q. What time was your bus due?

Testimony of Sam Thompson

A. Between 3:30—about a quarter to four.

Q. And this was what time when the officer picked you up?

A. 3:30.

Q. You had no bus ticket?

A. You don't buy a bus ticket.

Q. You know that the bus dispatcher didn't want you in there—

Mr. Lusky: Object: I know better than that because I talked to the dispatcher. I talked to the dispatcher and he said he didn't call the officers.

Q. Didn't the dispatcher complain about these winos being in there?

Mr. Lusky: Object, and move that that be stricken.

Q. Now, you say you just work one day a week?

A. I work for Dr. Dean one day a week—

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Q. You were only working one day a week at the time this occurred?

A. Yes.

Q. And the rest of the time you hung around this bus station?

Mr. Lusky: Object.

A. No.

Q. Is your mother still living?

A. No.

Redirect Examination by Mr. Lusky

Q. Had you suffered an injury to your left arm on Saturday the 10th of January?

A. Yes.

Q. Was that such that it required seven stitches at the time?

A. Yes.

Testimony of Sam Thompson

Q. Were you able to work after that—

The Court: He said he worked a full day.

Q. Did Officer Suter to your knowledge—I don't know what his answer will be—did he have any knowledge of this injury to your arm?

A. I am quite sure he did.

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Q. Will you tell the Court how he knew about this previous injury?

A. Well, another officer knew—

The Court: Just what this officer knew.

A. Well, on the way down to the police station they were having a picnic.

Q. Had you seen Officer Suter the previous Saturday?

A. Yes.

Q. Will you state the circumstances under which you had seen him?

Mr. Dougherty: Object.

Q. How did he know that your arm was injured?

A. The other officer made the remark—

The Court: How did you injure your arm?

Q. Was it cut with a knife?

A. Yes.

The Court: In a cutting scrape?

Mr. Lusky: Object.

The Court: Had you been in a cutting scrape the Saturday night before that?

A. Yes.

Mr. Lusky: I would like to offer, since

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I want the record to be straight and I will prove it unless it can be stipulated that on January 10th Mr. Thompson was stabbed in the arm on Jefferson Street by a stranger, unknown to him, that Mr. Thompson followed this stranger

Testimony of Sam Thompson

down the street and hailed a squad car and asked the officer to arrest this man, but instead of arresting the man, Mr. Thompson was arrested and charged with disorderly conduct.

Mr. Dougherty: I certainly would not stipulate that.

Q. Did you do anything to bring this stabbing about?

Mr. Dougherty: Object.

A. No.

Q. Officer Suter, did you talk to this man on the 10th?

Mr. Suter: I was not working on the 10th or the 11th.

ALMA FORD, called for the defendant, being first duly sworn, was examined by Mr. Lusky, and testified as follows:

Q. What is your name?

A. Alma Ford.

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Q. Where do you live?

A. 1728 Lucas.

Q. What do you do?

A. I do domestic work.

Q. How long have you known Mr. Thompson?

A. Ever since he has been in Buechel.

Q. About a matter of some years?

A. About eight or nine years.

Q. Did you see him on the afternoon of January 14th?

A. Yes, sir.

Q. What time?

A. Between 3:30 and a quarter to 4:00.

Q. Where did you see him?

A. He was in the Union Bus Station at 231 Jefferson.

Q. State whether or not he sat down next to you and talked to you?

A. Yes. After he took drink of water he went over—he sat down facing the Jefferson Street side and was sitting

Testimony of Alma Ford

there talking to me when the officers came in— one came in from the left side— the right side door, and the other one came in the front way and they asked the different men what they were doing in there and they had different excuses as to what they were waiting for and what-not, and so Mr. Thompson was sitting there talking to me

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and then the Officer turned around to Mr. Thompson and said "Hey, you" and Mr. Thompson said "You mean me"? and the officer said "Yes", so Mr. Thompson walked over to him—he walked over to him and he began searching and then he took him out to the police car that was waiting outside and then took him on down.

Q. Your testimony is he was talking to you at the time Officer Suter came in the bus station?

A. Yes.

Q. Could you possibly be mistaken about that?

A. No, sir.

Q. Was Mr. Robinson sitting near him?

A. No.

Q. Was he talking to Mr. Robinson?

A. No, Mr. Robinson was standing up against the radiator like he was getting his hands warm.

Q. Did Mr. Thompson have any wine or any liquor on his breath?

A. No.

Q. How long had you been talking to Mr. Thompson before Officer Suter came in?

A. About four or five minutes.

Q. Did you hear him tell Officer Suter he was waiting there for a bus?

A. Yes, sir; he said he was waiting for the

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Fern Creek bus.

Testimony of Alma Ford

Q. You have ridden that bus with him before?

A. Yes, he leaves on the 3:45, or the other one at 4:30.

Cross-examination by Mr. Dougherty

Q. How long have you known him?

A. Eight or nine years.

Q. You know these other fellows?

A. No.

Q. You say you ride the bus all the time?

A. Yes.

Q. About how many times a week?

A. I ride the bus five days a week.

Q. You have never seen these fellows in the bus station before?

A. Yes, I have seen them in the bus station.

Q. Did you ever see Thompson drinking wine in there at times?

A. No.

Q. Now, you want to do everything you can to help Mr. Thompson?

A. Sir?

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Q. You want to do everything you can to help him?

A. Yes, and I want to tell the truth.

Q. Where do you work?

A. Well, on Tuesdays I work for the Dookans and Wednesday I work for Mrs. Hardin and—

Q. Is that Mrs. W. L. Doolan?

A. Yes, and I work for Mrs. Bland and Mrs. Kennedy and Mrs. Ziegland, and—

OWEN ROBINSON, called for the defendant, being first duly sworn, was examined by Mr. Lusky, and testified as follows:

Testimony of Owen Robinson

Q. What is your name?

A. Owen Robinson.

Q. You are one of the defendants in a case here today?

A. Yes.

Q. And you were arrested in the Union Bus Terminal on the afternoon of January 14th about a quarter to four in the afternoon?

A. Yes.

Q. On that day did you see Mr. Thompson?

A. I saw him there.

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Q. Did you talk to him?

A. No.

Q. Did you talk to him that day?

A. No.

Q. Had he said a word at all to you?

A. No.

Cross-examination by Mr. Dougherty

Q. Did you talk to him on the outside that day?

A. No.

Q. You are the one that had the pint of wine?

A. Yes.

Q. And did Thompson drink out of that pint of wine?

Mr. Lusky: Object.

A. No, I was the only one.

Q. Where did you get the wine?

A. I got it across the street from the bus terminal.

Q. How long have you known Mr. Thompson?

A. I don't know him now.

Q. Where do you work?

A. 211 South Third for John W. Conniffe.

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Q. Every day?

Testimony of Owen Robinson

A. Yes.

Q. What are your hours of work?

A. Well, I might start at five o'clock in the morning and work until 6:30.

Q. What kind of work do you do?

A. Porter work.

Q. Why do you hang around that bus station?

A. I don't hang around there.

Q. But you were drinking on this occasion—you were drunk?

A. I wasn't drunk.

Q. You weren't drunk?

A. No.

Q. But you had a pint of wine?

A. Yes, I did.

Q. Did you smell any liquor on Mr. Thompson's breath?

A. Well, I couldn't tell that because you know when you are drinking you can't smell it on anybody else.

Q. Then your answer is you didn't smell it on his breath because you had been drinking?

A. That's right.

The Defendant Here Rested.

The Court: Do you want an appealable

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fine, otherwise, I will give you the minimum fine of \$10, unless you want an appealable fine.

Mr. Lusky: If there is going to be a fine I would like for it to be an appealable fine, but first, I would like to file a brief after I get this transcript.

Mr. Dougherty: I object to that, because we have thousands of cases here and every time this gentleman comes in with a case he wants to make a federal case out of it and this is nothing but a two-bit case.

Proceedings

The Court: The officer has testified he has arrested this man before on similar charges and I am basing my decision on that.

Mr. Lusky: I would like to have a chance to be heard on this matter. This man was there to catch a bus and the officer testified he told him he was there to catch a bus and he had bus fare in his pocket—

The Court: He had no money.

Mr. Lusky: But he didn't search the man and he has been riding the bus with this woman that testified for years.

The Court: The officer testified he didn't have any money.

Mr. Lusky: It has to be agreed that he told the police officer that he was there to catch a bus.

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Mr. Dougherty: Was he going to wait til midnight to catch a bus?

Mr. Lusky: He was only there about five minutes and that's not contradicted.

Mr. Dougherty: This man has a long record of arrests and has been charged with perversion.

Mr. Lusky: I am not running him for public office; I am just defending him here on these charges and claim he is not guilty of this crime.

The Court: If you want to appeal it, I will make it \$20 on the loitering and file the vagrancy away.

Mr. Lusky: We would like to have the vagrancy dismissed.

Mr. Dougherty: Your Honor, he is just doing that to try to intimidate the officer.

Mr. Lusky: Nothing of the sort, the testimony is that he had means of support.

The Court: I have a right in the vagrancy case to

Proceedings

either give him a \$10 fine or thirty days in jail, or both and if you want an appealable fine I will give you the thirty days—I will either give him \$10 on the vagrancy or thirty days.

Mr. Lusky: What happens if he doesn't pay the \$10?

The Court: He has to work it out.

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Mr. Lusky: The \$10 fine is not appealable?

The Court: No. Change the \$10 fine on vagrancy to thirty days for the purpose of appeal and I will make it \$20 on the loitering charge because counsel asked me to make it large enough to appeal.

Mr. Lusky: For the record I want to make a motion for a new trial, which I assume Your Honor will overrule, but I want to make a motion for a new trial on the ground that the statute and the ordinance as applied here deprive the defendant of his liberty and property without due process of law, in violation of the 14th Amendment to the United States Constitution.

The Court: Let the record show that the motion is overruled and also let the record show that on the loitering charge the court proposed to give a \$10 fine but counsel desires an appealable fine so I will make the fine \$20 on the loitering, and the vagrancy charge, the Court proposed to file away that charge but counsel for defendant insists upon a dismissal and I was going to make a \$10 fine on the vagrancy charge but counsel desires an appealable fine so I will make the fine thirty days in jail on the vagrancy charge.

Proceedings

State of Kentucky }
County of Jefferson: } ss.

I, James G. Warren, Official Stenographer, Police Court of Louisville, Kentucky, do hereby certify that the foregoing is a full, true and correct transcript of the said testimony given in the above styled action.

Witness my hand this 28th day of January, 1959.

(s) James G. Warren,
Official Stenographer, Police Court
Louisville, Kentucky.

EXHIBIT "C".

BUECHEL BUS CO. LOUISVILLE - APPLIANCE PARK SCHEDULE Daily except Sunday and Holiday

INBOUND READ DOWN	XS								XS						
	AM	AM	AM	AM	AM	AM	AM	PM	PM	PM	PM	PM	PM	PM	PM
APPLIANCE PARK GATE #5			707						G		335				
APPLIANCE PARK GATE #2	525	5613	*	800	855	1016	1136	103	200	225	340	425	530	730	
BASHFORD MANOR & NEWBURG	538	626	721	811	906	1027	1147								
BARDSTOWN & DOUGLASS	550	638	733	823	918	1039	1159	119	216	241	356	441	546	746	
LOUISVILLE ARR. (LTC)	609	657	752	842	937	1058	1218	138	235	300	415	500	605	805	

OUTBOUND READ DOWN	XS								XS						
	AM	AM	AM	AM	AM	AM	PM	PM	PM	PM	PM	PM	PM	PM	PM
LOUISVILLE LV. (LTC)	610	710	805	845	940	1100	1220	140	235	315	430	515	615	815	
BARDSTOWN & DOUGLASS	629	729	824	904	959	1119	1239	159	254	334	449	534	634	834	
BASHFORD MANOR & NEWBURG							1252	212	307	347	502	547	647	847	
APPLIANCE PARK GATE #2	645	745	840	920	1015	1135	102	222	*	357	512	557	657	857	
APPLIANCE PARK GATE #5	650			G					320			G			

SUNDAY & HOLIDAY TO LOUISVILLE Via Bardstown Road					
INBOUND			OUTBOUND		
Lv. Newburg & Shep. Rd.	Bashford Manor & Newburg Rd.	Arr. Lou. (LTC)	Lv. Lou. (LTC)	Bashford Manor & Newburg Rd.	Arr. Newburg & Shep. Rd.
AM	AM	AM	AM	AM	AM
900	910	937	945		1015
1030	1040	1107	1115		1145
PM		PM	PM	PM	PM
300		330	330	357	407
430		500	500	527	537
600		630	630	657	707
730		800	800	827	837

* - Via Shepherdsville Road
and Poplar Level Road.

@ - From Bardstown and
Shepherdsville to Newburg
and Shepherdsville, then
north.

G - To or from Garage.

XS - Does not run on Saturdays.

Effective January 11, 1959.

EXHIBIT "D".

EXHIBIT "D".

BLUE MOTOR COACH LINES

FERM CREEK - LOUISVILLE

SCHEDULE EFFECTIVE SEPTEMBER 16, 1957

STATIONS

FERM CREEK: EAT SHOPPE

LOUISVILLE: 213 W. LIBERTY STREET

SCHEDULE FOR WEEK DAYS

Phone JU 4-5336

OUTBOUND					INBOUND				
Leave Louis- ville	Leave Gardiner Lake	Leave Buechel	Leave Rest Haven	Arrive Fern Creek	Leave Fern Creek	Leave Rest Haven	Leave Buechel	Leave Gardiner Lake	Arrive Louis- ville
A.M.					A.M.				
5.00	5.25	5.30	5.33	5.40	5.40	5.47	5.50	5.55	6.20
5.30	5.55	6.00	6.03	6.10	6.10	6.17	6.20	6.25	6.50
6.00	6.25	6.30	6.33	6.40	6.40	6.47	6.50	6.55	7.20
6.25	6.50	6.55	6.58	7.05	7.10	7.17	7.20	7.25	7.50
6.55	7.20	7.25	7.28	7.35	7.40	7.47	7.50	7.55	8.20
7.25	7.50	7.55	7.58	8.05	8.10	8.17	8.20	8.25	8.50
7.55	8.20	8.25	8.28	8.35	8.40	8.47	8.50	8.55	9.20
8.30	8.55	9.00	9.03	9.10	9.15	9.22	9.25	9.30	9.55
9.20	9.45	9.50	9.53	10.00	10.00	10.07	10.10	10.15	10.40
10.00	10.25	10.30	10.33	10.40	10.45	10.52	10.55	11.00	11.25
10.45	11.10	11.15	11.18	11.25	11.30	11.37	11.40	11.45	12.10
11.30	11.55	12.00	12.03	12.10	P.M.				
					12.30	12.37	12.40	12.45	1.10
P.M.					1.30	1.37	1.40	1.45	2.10
12.30	12.55	1.00	1.03	1.10	2.15	2.22	2.25	2.30	2.55
1.30	1.55	2.00	2.03	2.10	3.00	3.07	3.10	3.15	3.40
2.15	2.40	2.45	2.48	2.55	3.45	3.52	3.55	4.00	4.25
3.00	3.25	3.30	3.33	3.40	4.30	4.37	4.40	4.45	5.10
3.45	4.10	4.15	4.18	4.25	5.00	5.07	5.10	5.15	5.40
4.15	4.40	4.45	4.48	4.55	5.30	5.37	5.40	5.45	6.10
4.45	5.10	5.15	5.18	5.25	6.00	6.07	6.10	6.15	6.40
5.15	5.40	5.45	5.48	5.55	6.30	6.37	6.40	6.45	7.10
5.45	6.10	6.15	6.18	6.25	7.00	7.07	7.10	7.15	7.40
6.15	6.40	6.45	6.48	6.55	8.30	8.37	8.40	8.45	9.10
7.30	7.55	8.00	8.03	8.10	10.00	10.07	10.10	10.15	10.40
9.15	9.40	9.45	9.48	9.55	11.30	11.37	11.40	11.45	12.10
10.45	11.10	11.15	11.18	11.25					

Schedule for Sunday and Holidays on reverse side

EXHIBIT "E".**POLICE COURT OF LOUISVILLE****No. B9174**

Commonwealth of Kentucky and
City of Louisville,

Plaintiffs,

v.

Sam Thompson,

Defendant.

AVOWAL OF SAM THOMPSON.

The witness Sam Thompson, if permitted to answer, would testify, and the same is true, that on January 10, 1959, he was arrested without a warrant by officer F. Fletcher of the Louisville Police Force and without legal cause was charged with the crime of disorderly conduct; that on January 11, 1959, he retained counsel and on January 12, 1959, when arraigned in Louisville Police Court demanded a trial, whereupon ~~the case was~~ assigned for trial January 27, 1959; that on January 12, 1959, he obtained his liberty on bond pending trial; that on January 14, 1959, the said police officer F. Fletcher and officer J. S. Suter arrested him without a warrant and without legal cause charged him with the crimes of loitering and vagrancy; that after his said arrest and while conveying him to Police Headquarters one of the said police officers said, "I ought to whip your ass", and pulled his hat roughly down over his face, giving him to understand that he had been thus re-arrested because he had retained counsel, pleaded not guilty and demanded a trial on the previous disorderly conduct charge, which would put officer Fletcher to the trouble of appearing in court to testify on January 27, 1959; that on January 14, 1959, he retained counsel, pleaded not guilty to said charges of vagrancy and loitering and demanded a trial, whereupon the case was assigned

Exhibit "E"—Avowal of Sam Thompson

for trial January 20, 1959; that a trial on said charges was held in Louisville Police Court on that date, at which no evidence was introduced to support the charges; as evidenced by the transcript of evidence authenticated by the certificate of James G. Warren, official stenographer of said Police Court, a counterpart original copy of which transcript is attached hereto and tendered in evidence herewith; that the Judge of said Court nevertheless found him guilty of loitering but stated his intention to file away the vagrancy charge, whereupon defense counsel objected to such action, as a result of which the said Judge found him guilty of vagrancy also; that he thereupon immediately perfected an appeal from said judgment of conviction to Jefferson Circuit Court and made a supersedeas bond, thus obtaining his liberty pending determination of the appeal, which has not yet been decided; and that on January 27, 1959, the original charge of disorderly conduct came on for trial in Louisville Police Court and was filed away.

Further, that he is a person of limited income, earning approximately \$12 to \$20 a week; that although said income is sufficient for his minimum personal needs, he has little or no surplus funds; that he has incurred attorney fees totaling \$50 for representation in the two cases aforesaid, has spent \$24 for the fees on his two aforesaid bail bonds and \$27 for the fee on his said supersedeas bond fee on appeal; that in the present case he has incurred a further attorney fee in the amount of \$25 and another bail bond fee in the amount of \$12; that he will probably be financially unable to defend himself against further groundless arrests and prosecutions; and that if he is forced to abandon such defense because of the expense involved, he will have been denied all redress against the aforesaid unjustified and malicious prosecutions even though said prosecutions were wholly without legal cause.

(s) Louis Lusky,
Attorney for Defendant.

EXHIBIT "F".**POLICE COURT OF LOUISVILLE****No. B9174**

Commonwealth of Kentucky and
City of Louisville,

Plaintiffs,

v.

Sam Thompson,

Defendant.

**MOTION TO DISMISS AT CLOSE OF
WHOLE CASE.**

Comes now the defendant by counsel at the close of the whole case and renews his motion to dismiss previously made at the close of the prosecution's case, on the same Federal constitutional and other grounds as were stated in said earlier motion.

(s) Louis Lusky,
Attorney for Defendant.

EXHIBIT "G".**POLICE COURT OF LOUISVILLE**

No. B9174

Commonwealth of Kentucky and

City of Louisville,

Plaintiffs,

v.

Sam Thompson,

Defendant.

APPLICATION FOR STAY AND FOR BAIL.

Comes now the defendant by counsel and respectfully states to the Court that he desires to seek review of the judgment of conviction herein in the Supreme Court of the United States, in order to obtain adjudication of his constitutional rights under the Due Process Clause of the Fourteenth Amendment to the United States Constitution; that he will, in the near future, apply for review in the Supreme Court on certiorari or appeal; that, however, his application for appeal or certiorari will not be acted upon by that Court, in the ordinary course, for a month or more; and that if he is committed to jail during that period his sentence herein will have been served and satisfied before the Supreme Court can act on his application for review and the case will thereby become moot; and that, in order to preserve his right to the determination of his rights under the United States Constitution, it is constitutionally necessary that execution of the sentence herein be stayed for a time sufficient to enable him to seek review of the case in the Supreme Court and, if said Court takes jurisdiction of the case, for a further period pending final disposition of the case by that Court.

Exhibit "G"—Application for Stay, Etc.

Wherefore, the defendant moves that execution of the sentence herein be stayed until final disposition of the case by the United States Supreme Court, and that defendant be allowed his freedom during the period of said stay upon execution of a proper supersedeas or bail bond, with good sureties, it being understood that if the defendant shall fail to make application to the Supreme Court of the United States for review of the case within the period permitted by law, the stay herein shall be automatically terminated and the defendant shall forthwith surrender himself for execution of the sentence.

(s) Lonis Lusky,
Attorney for Defendant.

EXHIBIT "H".**POLICE COURT OF LOUISVILLE**

No. B9174

Commonwealth of Kentucky and

City of Louisville, - - - - -

Plaintiffs,

v.

Sam Thompson, - - - - -

Defendant.

MOTION FOR NEW TRIAL.

The defendant by counsel moves for a new trial on the same Federal constitution and other grounds as were stated in his motion to dismiss at the close of the prosecution's case and his further motion to dismiss at the close of the whole case, and prays an opportunity to argue the motion on the basis of the transcript of evidence after said transcript has been prepared by the Official Stenographer of this Court.

(s) Louis Lusky,

Attorney for Defendant.

POLICE COURT OF LOUISVILLE

No. B9174-A

Commonwealth of Kentucky and
City of Louisville,

Plaintiffs,

v.

Sam Thompson,

Defendant.

JUDGMENT—LOITERING.

The above-styled case having come on for trial without a jury before the Honorable Hugo Taustine on February 3, 1959, and the defendant having appeared personally and by counsel, and evidence having been received and argument heard, and the Court being sufficiently advised, it is Ordered and Adjudged that the defendant is found guilty of loitering as charged, under Section 85-12 of the Ordinances of the City of Louisville; and pursuant to Section 85-13 of said Ordinances he is fined \$10 and is ordered to pay the costs of this action; and

Whereas the foregoing judgment is not appealable or otherwise reviewable by any Kentucky Court, but the defendant by counsel has declared his intention to seek review thereof in the Supreme Court of the United States, and to that end has applied for a stay of execution and bail pending disposition of the case by said Supreme Court, and whereas the Court being advised is of the opinion that it is legally powerless to suspend execution or allow bail for more than 24 hours, it is further

Ordered that execution of the foregoing judgment and sentence be and it hereby is suspended for 24 hours, to-wit, until 12:00 o'clock Noon on February 4, 1959, at which time the defendant shall surrender himself to Kenneth

Judgment-Loitering

Wildt, Bailiff of this Court, for execution of the sentence; and it is further Ordered that the defendant may remain at liberty upon his appearance bond heretofore executed until that time.

(s) Hugo Taustine, Judge,
Police Court of Louisville.
Enter: February 3, 1959.

A true copy:

Attest—H. C. Akin,
Clerk, Police Court of
Louisville.

JUDGMENT—DISORDERLY CONDUCT.

The above-styled case having come on for trial without a jury before the Honorable Hugo Taustine on February 3, 1959, and the defendant having appeared personally and by counsel, and evidence having been received and argument heard, and the Court being sufficiently advised, it is

Ordered and Adjudged that the defendant is found guilty of disorderly conduct as charged, under Section 85-8 of the Ordinances of the City of Louisville; and pursuant thereto, he is fined \$10 and is ordered to pay the costs of this action; and

Whereas the foregoing judgment is not appealable or otherwise reviewable by any Kentucky Court, but the defendant by counsel has declared his intention to seek review thereof in the Supreme Court of the United States, and to that end has applied for a stay of execution and bail pending disposition of the case by said Supreme Court, and whereas the Court being advised is of the opinion that it is legally powerless to suspend execution or allow bail for more than 24 hours, it is further

Ordered that execution of the foregoing judgment and sentence be and it hereby is suspended for 24 hours, to-wit, until 12:00 o'clock Noon on February 4, 1959, at which time the defendant shall surrender himself of Kenneth Wildt, Bailiff of this Court, for execution of the sentence; and it is further Ordered that the defendant may remain at liberty upon his appearance bond heretofore executed until that time.

(s) Hugo Taustine, Judge,
Police Court of Louisville.

Enter: February 3, 1959.

A true copy:

Attest—H. C. Akin,
Clerk, Police Court of
Louisville.

JEFFERSON CIRCUIT COURT
Common Pleas Branch, Fifth Division
No. 40175

Sam Thompson,

Petitioner,

v.

Hugo Taustine, Judge, Police Court of Louisville; Solon F. Russell, the Sheriff of Jefferson County; and Kenneth Wildt, the Bailiff of the Police Court of Louisville, Respondents.

ORDER.

This matter having been regularly brought on for hearing on the petition for writ of Habeas Corpus by Sam Thompson, and Kenneth A. Wildt, Bailiff of the Police Court of Louisville, having produced the petitioner in obedience to said writ and having filed his response showing that he is holding the petitioner in custody under two commitments duly issued by the Clerk of the Police Court on two judgments entered in the Police Court in cases No.'s B9174A and B9174B wherein Sam Thompson was the defendant, and it appearing from the pleadings herein and from the provisions of the Kentucky Revised Statutes that the petitioner can not appeal the judgments of the Police Court mentioned above or otherwise obtain review of said judgments in any court of the Commonwealth of Kentucky and that said petitioner desires to apply to the Supreme Court of the United States for a writ of certiorari on the ground that his constitutional rights under the Federal Constitution have been violated by the judgments above set out, and it further appearing to the Court that it will take more than ten days for application for the writ of

Order

certiorari to be made to the Supreme Court, and that unless the carrying into execution of the two judgments of the Police Court is stayed while said application is being made to the Supreme Court, the constitutional questions raised by the petitioner will become moot, it is, therefore,

Ordered, Considered And Adjudged by this Court that the petition for writ of habeas corpus herein be granted and that the petitioner, Sam Thompson, execute bond in the penal sum of \$35.00 with approved surety, or by depositing with the Clerk of this Court \$35.00 in United States currency, the bond to be conditioned upon his surrendering himself forthwith to the Bailiff of the Police Court of Louisville to be dealt with and proceeded against according to law in the event the two above-mentioned judgments of the Police Court of Louisville shall be affirmed, or his petition for a writ of certiorari be for any cause dismissed or denied by the Supreme Court of the United States, or if such petition be not filed on or before May 4, 1959, or if said writ is granted and the judgment of the Police Court of the City of Louisville is reversed and a new trial ordered.

It Is Further Ordered by the Court that the Police Court of Louisville and the Bailiff thereof shall suspend all actions and proceedings to enforce said two aforementioned judgments, in accordance with the terms of this order, and that an attested copy of this order be sent to the Clerk of the Police Court of Louisville with directions to include said attested copy in such transcript of record as shall be prepared in the two above-mentioned cases.

(s) Lawrence S. Grauman,

Judge.

Attested Copy: John M. Hennessy,
Circuit Clerk.

Filed: May 1, 1959. J. H. [unclear] D. [unclear]

[fol. 81]

SUPREME COURT OF THE UNITED STATES

No. 884, October Term, 1958

SAM THOMPSON, Petitioner,

VS.

CITY OF LOUISVILLE et al.

ORDER ALLOWING CERTIORARI—June 22, 1959

The petition herein for a writ of certiorari to the Police Court of Louisville of the Commonwealth of Kentucky is granted. The case is transferred to the summary calendar.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.